

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

LANCE MILES FUNDERBURK,  
  
Plaintiff,  
  
-against-  
  
C.O. "JOHN" BARIONNETTE (#7739) et al.,  
  
Defendants.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 10/15/2020

1:19-cv-10365 (MKV)

ORDER

MARY KAY VYSKOCIL, United States District Judge:

The Court is in receipt of a letter from Plaintiff regarding service on Defendant Appiah [ECF #33]. Plaintiff correctly points out that in an Order dated December 5, 2019, Judge Carter stated that the Court would issue a further order of service once: (1) Defendants provided information about the identity of a medical provider who Plaintiff identified in his original pleading only as Defendant Charles; and (2) Plaintiff filed an amended complaint with the full name of the defendant in question [ECF #8]. Defendants provided information in response to Judge Carter's *Valentin* Order [ECF #20], and Plaintiff filed the First Amended Complaint naming Defendant Charles Appiah [ECF #23]. However, the case was stayed when Plaintiff filed the First Amended Complaint, and no order of service was issued at the time. The Court thanks Plaintiff for bringing this oversight to its attention.

Accordingly, the Court respectfully directs the Clerk of Court to issue a summons as to Defendant Appiah. Plaintiff is directed to serve the summons and First Amended Complaint on Defendant Appiah within 120 days of the issuance of the summons. Plaintiff is, of course, free to serve Defendant Appiah in fewer than 120 days. However, if within those 120 days, Plaintiff has not either served Defendant Appiah or requested an extension of time to do so, the Court may

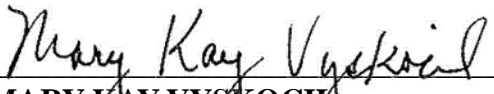
dismiss the claims against Defendant Appiah under Rules 4 and 41 of the Federal Rules of Civil Procedure for failure to prosecute.

To allow time for Plaintiff to serve Defendant Appiah and for Defendant Appiah to answer, IT IS HEREBY ORDERED that the Initial Pretrial Conference that was scheduled to take place on October 29, 2020 is adjourned *sine die*. The Court will promptly reschedule the Initial Pretrial Conference once Defendant Appiah responds to the First Amended Complaint.

The Court will mail a copy of this Order to Plaintiff.

**SO ORDERED.**

**Date: October 15, 2020**  
**New York, NY**

  
**MARY KAY VYSKOCIL**  
**United States District Judge**